

**IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY**

CIV-2019-404-

In the matter of Part 19 of the High Court Rules and Sections 255, 257, 280,
284(1)(a) and 286 of the Companies Act 1993

And

In the matter of an application concerning **TRENDS PUBLISHING
INTERNATIONAL LIMITED (IN RECEIVERSHIP)** having its
registered office at Restructuring Services Limited, 12
Findlay Street, Ellerslie, Auckland, 1051.

And

In the matter of an application by **KARE JOHNSTONE AND ANDREW JOHN GRENFELL** of
Auckland both Insolvency Practitioners, for an orders under
sections 255 and 257 of the Companies Act 1993.

Applicants

**AFFIDAVIT OF KARE JOHNSTONE IN SUPPORT OF APPLICATION WITHOUT
NOTICE FOR ORDERS UNDER SECTIONS 255 AND 257 OF THE COMPANIES
ACT 1993**

Dated: *24* October 2019

BUDDLEFINDLAY
NEW ZEALAND LAWYERS

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I, **KARE JOHNSTONE**, Chartered Accountant and Accredited Insolvency Practitioner of Chartered Accountants Australia and New Zealand, of Auckland, swear:

Introduction

1. I am a Chartered Accountant and Accredited Insolvency Practitioner of Chartered Accountants Australia and New Zealand specialising in Corporate Recovery and Insolvency. I am a partner of the firm McGrathNicol Limited (**McGrathNicol**). McGrathNicol is a specialist corporate recovery and insolvency practice. I am an insolvency practitioner with over 20 years' experience and have been appointed on numerous occasions as a liquidator and receiver of companies.
2. The second-named applicant, Andrew John Grenfell, is also a Chartered Accountant and Accredited Insolvency Practitioner of Chartered Accountants Australia and New Zealand. He is also a partner at McGrathNicol and specialises in corporate recovery and insolvency.
3. I have previously made an affidavit in proceedings CIV-2017-404-922 in support of an application seeking permission for Mr Grenfell and me to act as liquidators of Trends Publishing International Limited (**Trends**).
4. This affidavit is made in support of an application for orders modifying the requirements under sections 255(2)(c) and (d) and section 257(1) of the Companies Act 1993 (**Act**) in relation to Trends in the event that Mr Grenfell and I are appointed as liquidators. The application also seeks to modify the service requirements under section 391 of the Act.

Reasons for this application

5. Mr Grenfell and I have been approached by a creditor of Trends and have been asked to accept an appointment as liquidators of Trends on an application by that creditor.
6. In May 2017, the High Court granted us permission to be appointed to act as liquidators of Trends. We understand that one of Trends' creditors, Callaghan Innovation, has applied to place Trends into liquidation (CIV 2019-404-1899) and that the matter is scheduled for determination in the High Court at Auckland on 1 November 2019 at 10am.

7. In the event that Mr Grenfell and I are appointed as directors of Trends, under sections 255(2)(c)(ii) and (d) and 257(1) of the Act we would be required to send to every known creditor, every shareholder and the Registrar the following documents (together, the **Liquidators' Reports**):
- (a) a first report, notice and list of creditors within 25 working days of our appointment;
 - (b) further six-monthly reports on the conduct of the liquidation and our proposals for completing the liquidation; and
 - (c) a final report at the conclusion of the liquidation.
8. My understanding from judgments in previous proceedings involving Trends is that it had a large number of creditors, including overseas creditors. As such, sending reports by post will be time consuming and expensive and will unnecessarily reduce the pool of funds available to be distributed to unsecured creditors.
9. Conversely, there would be a lower cost to provide access to the Liquidators' Reports by email. I consider that sending a link to a website where copies of the Liquidators' Reports can be readily downloaded (as opposed to attaching copies of the Liquidators' Reports themselves to each email) would be the most efficient and cost-effective means of ensuring access to the Liquidators' Reports to the shareholders and creditors for whom we would have email addresses. Doing so would also avoid the risk that the Liquidators' Reports would be too large to be received by whatever email service provider each shareholder and creditor may be using.
10. Instead of posting a copy of the Liquidators' Reports to all shareholders and creditors of Trends, Mr Grenfell and I are seeking orders permitting us to provide a copy of the Liquidators' Reports by:
- (a) Uploading a copy to McGrathNicol's website:
<https://www.mcgrathnicol.com/>.
 - (b) Filing a copy with the Registrar (which is an existing statutory obligation in any event), which should be uploaded to the Companies Office website and be available to the public.

- (c) Emailing a link to a website where copies of the Liquidators' Reports can be downloaded (for shareholders and creditors for whom we would have an email address).

Application without notice

- 11. I believe that it is appropriate for this application to be determined on a without notice basis because:
 - (a) Personal service of the originating application on the secured creditors and unsecured creditors would be an added expense to the liquidation and would delay the liquidation application of the Company.
 - (b) If appointed as liquidators, we would only have 25 working days to perform our obligations under section 255 of the Act.
 - (c) In any event, the creditors and shareholders would retain a right to apply to modify or extinguish the orders we are seeking.
- 12. Accordingly, I respectfully ask the Court to make the orders and directions sought.

Sworn at Auckland)
this ^{24th} day of October 2019)
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Kare Johnstone

Before me:


Aimee Mackay - Solicitor - Auckland.
A Solicitor of the High Court of New Zealand